REMARKS

This is in full and timely response to the above-identified Office Action. The above listing of the claims supersedes any previous listing. Favorable reexamination and reconsideration are respectfully requested in view of the preceding amendments and the following remarks.

Claim amendments/Status

Independent Claim 1 has been amended and currently recites a cosmetic preparation for topical application onto a skin of a subject; the preparation comprises Dead Sea mud and demagnetized nanoparticles dispersed therein, the demagnetized nanoparticles are present in a quantity greater than naturally found in the Dead Sea mud. The demagnetized nanoparticles are suitable for magnetization when dispersed in the preparation or when applied onto the skin of a subject.

Support for amended claim 1 may be found in the description on page 7, lines 47. Further support may be found in Tables 2 and 4 and in Examples 3-12. The tables display the amount of various materials naturally found in the Dead Sea mud, being provided in parts per million (ppm) scale. The quantity of particles used in the preparation as claimed in currently amended claim 1 is greater than naturally found in the Dead Sea mud, as exemplified in the application to be 1% and above (Examples 3 to 12).

Dependent claim 11 has been amended and now relates to a cosmetic preparation wherein the particles are demagnetized nano-particles having a diameter of 20 to 200 nm. Support for the diameter range can be found in original claim 12.

Dependent claim 12 has been amended to depend from claim 11. The diameter range has been restricted to 50 to 200 nm. Support for the diameter range can be found in Examples 3 and 4.

New claim 16, which depends from claim 1, has been added. The claim is specific to demagnetized strontium hexaferrite nanoparticles being in a quantity greater than 400 ppm. Specified strontium hexaferrite is supported in the description on page 7 line 3 and in previously presented claim 3. Support for *"quantity greater than 400 ppm"* can be found in Table 4 which specifies the content of strontium (Sr) naturally found in the Dead Sea mud i.e., 400 ppm.

New claim 17, which depends from claim 1, has also been added. The claim is specific to demagnetized strontium hexaferrite nanoparticles being in a quantity greater than naturally found in the Dead Sea mud.

Rejections under 35 USC § 103

The rejection of claims 1, 3, 5-9, 12 and 15 under 35 U.S.C. § 103(a) as being unpatentable over Maor et al. (WO 00/40255) in view of Zastrow et al. (US 5,961,988), or *vice versa,* is respectfully traversed.

The Examiner advances that it would have been obvious to a person having ordinary skill in the art at the time the invention was made to combine the Dead Sea Mud cream taught by Maor et al. with the magnetic particles taught by Zastrow et al., thus arriving at the claimed invention.

Applicant respectfully traverses with the Examiner's position.

A combination of Maor at el., and Zastrow et al. would not result in a combination in the form of the preparation claimed in currently amended claim 1. A person skilled in the art would not have had the incentive to combine the two teachings, particularly in view of the very explicit disclosure of Zastrow et al. *vis-à-vis* the contribution of the magnetic particles.

Zastrow et al. disclose a cosmetic or dermatological preparation comprising magnetic particles. As disclosed in column 1, beginning at line 20, the objective of the invention is "...to *greatly improve on certain properties of the known preparations."* Such known preparations are those acknowledged in the same patent in column 1, lines 9-19.

Zastrow et al. continue to disclose that:

> *"It has now been found that a surprisingly high wound healing effect and anti- inflammatory effect can be achieved and the hair growth stimulating effect of such preparations can be increased to an unexpected extent if the particle size of the magnetically hard single domain particles is in the range of 100 to 550 nm* ***and*** *if,* ***in addition to asymmetrical lamellar aggregates charged (loaded) with single-domain particles or magnetic particles****, there are asymmetrical lamellar aggregates which are completely loaded with oxygen, and the later are present in an amount of at least 2.5 wt %, preferably at least 10 wt %."* (Emphasis added)

Zastrow et al. do not attribute the effect to the magnetic particles alone but rather to their use ***in*** **combination** with asymmetrical lamellar aggregates which are completely loaded with

oxygen. A person versed in the art faced with the disclosure of Zastrow et al. would find the use of magnetic particles less than optimal and in fact would recognize Zastrow et al. as teaching away from such use. Zastrow et al. does not provide a teaching as to the efficacy in using magnetic particles in the absence of the lamellar aggregates.

Additionally, if Zastrow et al. were to be considered the closest prior art to the invention disclosed in the present application, a combination thereof with the earlier disclosure of Maor et al. would not have arisen to the invention at hand. For the combination to be identical to that currently claimed, the preparation would necessitate also the inclusion of lamellar aggregates. Alternatively, if Maor et al. would be considered as the closest prior art, even then, an obvious combination would not arise.

Further, whereas the particles of Zastrow et al. have coercive field strength in the range of 1,000 to 20,000 Oerstedt (claim 1, column 6 lines 59-60) the nanoparticles in currently amended claim 1 of the preset application are demagnetized nanoparticles. The demagnetized nanoparticles are suitable for magnetization when dispersed in the preparation or when applied onto the skin of a subject.

Regarding previously presented claim 12, the Examiner alleges that Zastrow et al. teach that the magnetic particles have a particle size in the range of 80 to 550 nm, hence are classified as "nano-magnetic particles". The Examiner further alleges that the size range cited in Zastrow et al. overlaps with the size range described in previously presented claim 12, and one skilled in the art would have been motivated to select an optimal size for the magnetic particles from within said range by routine experimentation, in order to optimize the wound healing and anti-inflammatory properties of the magnetic particles.

In this respect, we wish to direct the Examiner's attention to Zastrow et al. particularly column 2, beginning at line 6 where it is stated that:

> *"The fact that it is possible to reduce the particle size of the single-domain particles to 100 to 550 nm was* ***surprising*** *for those skilled in the art because the risk of* ***agglomeration*** *of such magnetic particles also* ***increases with a reduction in particle size.*** *Furthermore, a weaker magnetic field effect and thus a* ***reduced efficacy were to be expected.*** *Presumably due to the nature of the magnetic particles as single crystals (single-domain particles), however, little or no agglomeration*

> *occurs when they are **mixed** with asymmetrical lamellar aggregates or it does not have much effect. The magnetic field effect is in fact weaker, but nevertheless the efficacy is unexpectedly greater. Without being bound to a theory, there may be interactions with the additional asymmetrical lamellar aggregates which are loaded completely and exclusively with oxygen. However, **they must be present in an** amount of at least 2.5 wt %, based on the total composition, if the presumed interaction is to occur"* (Emphasis added).

A person skilled in the art would not have had the incentive to reduce the magnetic particle size and in fact would recognize Zastrow et al. as teaching away from such action.

The Examiner also rejects Claim 11 under 35 U.S.C. § 103(a) as being unpatentable over Maor et al (WO 00/40255) in view of Zastrow et al (US 5,961,988), or *vice versa* as applied to claims 1, 3, 5-10, 12 and 15 above, and further in view of Chittofrati et al. (EP 0686447).

The Examiner's objection is rendered mute in view of the amendments introduced in Claim 11.

The Examiner asserts that the supporting Declaration filed in response to the Office Action is not persuasive. The Examiner alleges that since DerMud is known to provide relief of skin disease and disorders and strontium hexaferrite is known to have a wound healing effect and is useful for treating hypersensitive skin (Example 2 of Zastrow et al), the skilled artisan would reasonably expect that the combination of DerMud and strontium hexaferrite would show greater efficacy than either component by itself.

The Examiner's objection is rendered mute in view of the arguments provided herein above.

It is therefore Applicants' position that the claims as amended are novel and inventive over the art. Favorable reconsideration and allowance of this application should be solicited.

Conclusion

Early issuance of a Notice of Allowance is courteously solicited.

The Examiner is invited to telephone the undersigned, Applicant's attorney of record, to facilitate advancement of the present application.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 07-1337 and please credit any excess fees to such deposit account.

Respectfully submitted,
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